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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,658	04/10/2000	Rick A. Briggs	CKING.036CP1	2398

20995 7590 07/09/2008  
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EXAMINER
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OMOTOSHO, EMMANUEL

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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07/09/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/545,658	<b>Applicant(s)</b> BRIGGS ET AL.	
	<b>Examiner</b> EMMANUEL OMOTOSHO	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-45,49-54,56-65,67-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-45,49-54,56-65 and 67-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/11/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Request for Continued Examination (RCE)*

This is in response to the RCE filed 10/29/07, 33, 40, 42, 45, 51, 52, 59 and 63 were amended. Claims 67-70 were added. Claims 33-45, 49-54, 56-65 and 67-70 are now pending.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5865680 to Briggs in further view of **US Patent No. 6,426,741 B1 to Goldsmith** US Patent No. 5114155 to Tillery et al. and US Patent No. 6371375 B1 to Ackley et al.

3. In regards to claims 33-35, 67,69: Briggs teaches an interactive gaming system comprising one more play modules disposed within the play structure and sized and configured to receive or support one or more play participants playing in, on or around each said play module (Fig 1). Briggs further teaches the play modules comprising multiple play elements operatively associated with each said play module comprising one or more interactive games or challenges configured to be played or completed by one or more participants as part of an overall quest or mission (Fig 1 Col 2 lines 20-40). Briggs also teaches the idea of the game challenges being completed in the proper

order before another module can be played or completed (Col 4 lines 22-25). Briggs further teaches using kinetic energy to operate one or more play elements (Col 3 lines 1-5). Furthermore, Briggs reference teaches that any desirable game theme can be implemented with the play structure (Col 3 lines 3-5). However, Briggs lacks in explicitly disclosing that the game theme is a wizardry/fairy type theme where the use of a portable indicium such as a wand as a play element is involve.

**4. Goldsmith teaches of wand that wirelessly sends illuminating signals to a device through the use of a transceiver [i.e. the transmitter and receiver] (abstract). The user operates the wand by moving the wand in a specific way (Col 1 line 60-Col2 line 15). The device in turn wirelessly derive the velocity and positional data of the motion impacted by the user (Col 2 lines 5-18), it then interprets the illuminating signal and the derived data in order to perform a predetermined operation based on the interpretation. Goldsmith further teaches that the invention is not limited to sending illuminating signals, that the information could also be conveyed to the device through the use of radio frequency waves.**

**5. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented a wizardry/fairy type game theme with Briggs play structure where one of the play elements comprises of Goldsmith's wand (Goldsmith teaches the application of the invention in a gaming environment Col 3 lines 10-12 and 26-30) where in the kinetic energy required to activate such play element is shaking, waving, stroking, and/or**

**tapping. This will further add to the entertaining factor of Briggs invention (Briggs Page 1 lines 9-11). The motivation comes from Briggs Col 3 lines 3-5 where it states that other game themes could be implemented.**

**6. Briggs as modified above fails to teach the toy wand comprising a memory configured to store identification information for uniquely identifying said at least one play participant of said one or more play participants, the toy wand being further configured to wirelessly transmit said identification information to at least one of said multiple play elements during participation by said at least one play participant in said one or more interactive games or challenges. However, as shown above Briggs teaches the goal of the game is for each participant to use kinetic energy to activate one or more play elements to complete one of several necessary steps in a chain of triggering events. Goldsmith teaches that the Wand is capable of storing program data and event driven information into a memory (col 2:47-51). To store player identification data into this memory and to transfer this information to a device (i.e. in this case, each play elements) that is activated by the wand user would have been obvious to one having ordinary skill in the art. This way, Briggs system can incorporate means to account for each mission completed by the participants.**

**7. In regards to claim 36 and 62, Briggs teaches the play structure to be a multi-level play structure (Col 5 lines 9-13).**

**8. In regards to claims 38,50,53 and 64, Briggs teaches the play modules arranged sequentially and interconnected by one or more slides such that a first group of games**

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or challenges associated with a first play module are necessary to be played or completed before a second group of games or challenges associated with a second play module can be played (Col 5 lines 46-57 Col 9 lines 38-47).

9. In regards to claims 41 and 51 Briggs teaches the game system further comprising one or more challenge connections bridging two or more play modules, comprising a slide, rope bridge, trolley, swing, cargo net or ladder (Col 5 lines 46-57).

10. In regards to claims 37,39,40, 42-49, 52, 54-61,63 and 65-66 Briggs and Goldsmith teaches the features of all the present invention as described above but lacks in explicitly disclosing

- a. A scoreboard for displaying the progress of the participants
- b. Storing and receiving data through the use of radio frequency without the use of a central network system
- c. Actual storage of a player progress data and identification on a portable indicium and allowing access and determination of player progress with or without a central network system

11. Tillery teaches the idea of storing a player's progress data and identification data during a game session (lines 12-17 of abstract; Fig. 1, #60 and #45; player card readers #45 read and write to the player cards- col. 4, lines 42-46). The examiner further interprets this as communicating with a read/write devices that is associated with the interactive game/challenge. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature disclosed by Tillery in the system of Briggs modified by Goldsmith. This feature would provide the system a way

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to facilitate the saving/pausing of a game especially in the common gaming case where the player leaves the game for a bathroom break.

12. Tillery also teaches the idea of displaying players progress and standings on a display (scoreboard) (Abstract last line). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the display feature disclosed by Tillery in the system of Briggs modified by Goldsmith. This feature would aid the players in analyzing their current standings and progress in the game.

13. However, Tillery still fail to explicitly disclose the actual storage of a player progress data and identification on a portable indicium and allowing access and determination of player progress through the use of radio frequencies with or without a central network system

14. Ackley et al. teaches a method for associating data with a wireless memory device. Ackley et al. further teaches that the method can be used for storing and retrieving data, utilizing radio frequency tag having a memory for storing the data with a first identifier stored in memory (Abstract). Therefore, it would have been obvious for someone of ordinary skill in the art at the time of invention to incorporate Ackley et al.'s method into the wand as a way of tracking the wand/player and wirelessly monitoring the challenges/spell successfully casted by player. This will also further provide a more compact and cheaper play structure since the system is wireless and no central network system is required.

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15. In regards to claim 43, Briggs teaches the facility comprises one or more play modules sized and configured to receive or support said one or more play participants playing in, on or around each said play module (Fig 1.)

16. Claims 68 and 70: Briggs as modified above failed to teach wherein said toy wand is configured to produce at least one of vibration and sound by said toy wand in response to receiving said wireless communications from said at least one transceiver. However, to add a vibrating type notification signal to the already taught light and sound notification signal is a matter of design choice well within the skill set of an ordinary skilled artisan.

### ***Response to Arguments***

17. Applicant's arguments filed 6/22/07 have been considered but are moot in view of the new ground(s) of rejection. Please see the added highlighted cols above.

### ***Response to Arguments***

18. Applicant's arguments, in regards to the newly added limitations, filed 3/11/08, have been fully considered but they are not persuasive. The detailed office action above has been expanded to address these new limitations.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMMANUEL OMOTOSHO whose telephone number is (571)272-3106. The examiner can normally be reached on m-f 10-6.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EO

/Ronald Laneau/  
Primary Examiner, Art Unit 3714  
07/07/08